

ASSEMBLY BILL

No. 2590

Introduced by Assembly Member Bonnie Lowenthal

February 19, 2010

An act to amend Section 121010 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2590, as introduced, Bonnie Lowenthal. AIDS testing: disclosure of results.

Existing law establishes the State Department of Public Health and sets forth its powers and duties relating to the administration of public health programs, including programs relating to the prevention and control of communicable diseases. Existing law requires health care providers and laboratories to report cases of HIV infection to the local health officer using patient names, and requires local health officers to report unduplicated HIV cases by name to the department, but otherwise protects the confidentiality of the reported cases, with certain exception. Unauthorized willful or malicious disclosure of related confidential information that results in economic, physiological, or emotional harm is a crime.

Existing law specifies persons who may, without the consent of the subject, receive information regarding the results of blood tests to detect the probable causative agent of AIDS.

This bill would, instead, specify who may receive information regarding the results of blood tests to detect HIV. The bill would also permit disclosure of results to an agent or contractor of the state that is authorized by contract with the state to provide treatment to the subject of the test.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 121010 of the Health and Safety Code
2 is amended to read:
3 121010. Notwithstanding Section 120975 or 120980, the results
4 of a blood test to detect ~~antibodies to the probable causative agent~~
5 of AIDS HIV may be disclosed to any of the following persons
6 without written authorization of the subject of the test:
7 (a) To the subject of the test or the subject's legal representative,
8 conservator, or to any person authorized to consent to the test
9 pursuant to subdivision (b) of Section 120990.
10 (b) To a test subject's provider of health care, as defined in
11 subdivision (d) of Section 56.05 of the Civil Code, except that for
12 purposes of this section, "provider of health care" does not include
13 a health care service plan regulated pursuant to Chapter 2.2
14 (commencing with Section 1340) of Division 2.
15 (c) To an agent or employee of the test subject's provider of
16 health care who provides direct patient care and treatment.
17 (d) To a provider of health care who procures, processes,
18 distributes, or uses a human body part donated pursuant to the
19 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with
20 Section 7150) of Part 1 of Division 7).
21 (e) (1) To the designated officer of an emergency response
22 employee, and from that designated officer to an emergency
23 response employee regarding possible exposure to HIV or AIDS,
24 but only to the extent necessary to comply with provisions of the
25 Ryan White Comprehensive AIDS Resources Emergency Act of
26 1990 (~~P.L.~~ (*Public Law* 101-381; 42 U.S.C. Sec. 201)).
27 (2) For purposes of this subdivision, "designated officer" and
28 "emergency response employee" have the same meaning as these
29 terms are used in the Ryan White Comprehensive AIDS Resources
30 Emergency Act of 1990 (~~P.L.~~ (*Public Law* 101-381; 42 U.S.C.
31 Sec. 201)).
32 (3) The designated officer shall be subject to the confidentiality
33 requirements specified in Section 120980, and may be personally
34 liable for unauthorized release of any identifying information about
35 the HIV results. Further, the designated officer shall inform the

1 exposed emergency response employee that the employee is also
2 subject to the confidentiality requirements specified in Section
3 120980, and may be personally liable for unauthorized release of
4 any identifying information about the HIV test results.

5 *(f) To an agent or contractor of the state that, by contract with*
6 *the state, is authorized to provide medical care and treatment to*
7 *the subject of the test.*

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